

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the City of Owen for the Establishment of a Public Crossing of the Wisconsin Central Ltd. Tracks with Industrial Road in the City of Owen, Clark County

9164-RX-571

FINAL DECISION

By letter dated July 7, 2004, the City of Owen petitioned the Office of the Commissioner of Railroads (OCR) for the establishment of a public crossing of the Wisconsin Central Ltd. (WCL) tracks with Industrial Road in the City of Owen, Clark County. The City proposes to construct a spur track across Industrial Road to serve a proposed Gardner Trucking facility in 2004. Jurisdiction: Secs. 195.28 and 195.29, Stats.

Pursuant to due notice, public hearing was held in this matter on August 25, 2004 in Owen, Wisconsin with hearing examiner Douglas S. Wood presiding. The parties agreed to the issuance of this final decision without an initial proposed decision. In uncontested cases the Commissioner may do so.

Appearances:

**Parties**

City of Owen, Petitioner  
by  
Terri Ernst, City Clerk/Treasurer  
219 N. Pine Street  
Owen, WI 54460  
and  
Timothy Swiggum, Mayor  
907 East Third Street  
Owen, WI 54460

In Support:

Gardner Trucking and Cold Storage  
by  
Thomas L. Asselin, Vice President  
PO Box 268  
Pittsville, WI 54466

## Findings of Fact

### THE COMMISSIONER FINDS:

The City of Owen proposes to establish a public crossing of Industrial Avenue with a new spur track. The spur track would be owned by Gardner Trucking and Cold Storage (Gardner) and operated by the WCL.

Industrial Avenue is about 22' wide. The spur track will intersect the track at an angle of about 35°. The roadway approaches to the crossing would be nearly level. The track will be built about 8" above the surrounding roadway to allow for future reconstruction of the roadway. The track will be about 100' south of the Abby Gas spur track. The new spur track will be about 1200' in length and will switch off of the Abby Gas spur approximately 300' west of Industrial Avenue.

Industrial Avenue carries about 100 vehicles per day. The speed limit is 30 mph.

The railroad will operate 2 switch movements per day at a maximum speed of 10 mph. The extent of operations will be somewhat seasonal (heavier in winter). Daily service will likely not occur throughout the year. The track will serve the Gardner cold storage facility.

The exposure factor at this crossing will be about 200. The exposure factor equals the product of the number of trains per day and the number of highway vehicles per day, which yields a numerical value for the potential conflicts each day at the crossing.

A driver traveling at 30 mph needs a distance of 231' to stop safely. The crossing will be visible from more than 231' in each direction. Assuming a train speed of 10 mph, a driver traveling at 30 mph needs to see a train when it is 100' from the crossing from a point 231' down the highway. Adequate sight distance will be provided in all 4 quadrants.

Crossbucks and advance warning signs will adequately protect public safety based on the low train traffic volume, low train speed, low highway traffic volume, and low highway speed.

In summary, the establishment of the crossing at-grade of the spur track owned by Gardner Trucking and Cold Storage and operated by the Wisconsin Central Ltd. with Industrial Avenue will promote public safety and convenience.

**Costs.** Gardner Trucking and Cold Storage will fund the construction of the crossing.

**Timing.** Construction is planned for 2004. Construction will be performed by a contractor hired by Gardner.

## Ultimate Conclusions on the Issues

### THE COMMISSIONER CONCLUDES:

1. That the establishment of the crossing at-grade of Industrial Avenue with the track owned by Gardner Trucking and Cold Storage and operated by the Wisconsin Central Ltd. in accordance with the design plans of the Gardner Trucking and Cold Storage and the City of Owen in the City of Owen, Clark County will promote public safety and convenience.
2. That establishment of the crossing is advisable under all the circumstances.
3. That in order to adequately protect and promote public safety, it is necessary to install and maintain reflective crossbucks, advance warning signs, and clear vision triangles.
4. That it is reasonable that the Wisconsin Central Ltd. bear no part of the cost for the crossing construction.

### Conclusion of Law

### THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

### Order

### THE COMMISSIONER ORDERS:

1. That the **Gardner Trucking and Cold Storage** shall install and maintain a crossing at-grade of Industrial Avenue with its tracks in accordance with the design plans of the Gardner Trucking and Cold Storage and the City of Owen in the City of Owen, Clark County by **December 31, 2004**.
2. That the **Wisconsin Central Ltd.** shall install and maintain reflective back-to-back crossbucks with 2" wide reflective vertical strips on the front and back of the support posts on each approach to the crossing of its tracks with Industrial Avenue at-grade in the City of Owen, Clark County **by the time that crossing is installed**. The parties may agree to have the signs installed by the City of Owen, Gardner Trucking and Cold Storage, or their contractors.

3. That the **Wisconsin Central Ltd.** shall bear no part of the cost of the crossing construction, except for any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

4. That jurisdiction is retained.

Dated at Madison, Wisconsin, \_\_\_\_\_.

By the Office of the Commissioner of Railroads.

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Rodney W. Kreunen  
Commissioner of Railroads

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